

# Retirement News for Employers

Helping Business Owners with Retirement Plans

Internal Revenue Service Tax Exempt and Government Entities

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## IRS Issues Additional Pension Protection Act of 2006 Guidance and Introduces Web Page

[Notice 2007-7](#), released on January 10, 2007, provides guidance, in the form of questions and answers on eight different provisions of the Pension Protection Act of 2006 (PPA) as enacted on August 17, 2006, that are effective in 2007 or earlier. The provisions of PPA addressed in this notice, which are primarily related to distributions, pertain to:

Interest rate assumptions for lump sum distributions,  
Hardship distributions,  
Early distributions to public safety employees,  
Rollovers for nonspouse beneficiaries,  
Distributions to pay for accident or health insurance for public safety officers,  
Vesting of nonelective contributions,  
The notice and consent period for distributions, and  
Distributions from IRAs to charitable organizations.

To assist our users in navigating the many provisions of the PPA, we have developed a new web page devoted specifically to the new law and concomitant guidance issued by the IRS. The new page features:

The Pension Protection Act of 2006,  
Summary and Bill Information,  
Technical Explanation of H.R. 4 prepared by the Joint Committee on Taxation,  
Fact Sheet: The PPA: Ensuring Greater Retirement Security for American Workers,  
President Bush Signs H.R. 4, the PPA,  
Chart of PPA provisions and effective dates,  
DOL web page on the PPA,  
Archive of newsletter articles,  
Published guidance, and  
Other information.

Visit the Retirement Plans Community [PPA web page](#) for additional resources on the Pension Protection Act of 2006. ■



## Use of Electronic Media for Providing Employee Benefit Notices and Making Employee Benefit Elections and Consents

**Final regulations** have been issued setting forth standards for electronic systems that make use of an electronic medium to provide notices to recipients, or make participant elections or consents, with respect to retirement plans, employee benefit arrangements, or individual retirement plans. Generally, these regulations apply to applicable notices provided, and participant elections made, on or after January 1, 2007.

*Note: These final regulations reflect the applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-SIGN), Public Law 106-229, as it relates to the electronic delivery of notices. E-SIGN generally provides that electronic records and signatures are given the same legal effect as their paper counterparts.*

These regulations apply to any notice, election, or similar communication provided to or made by a participant/individual or beneficiary in the following:

- a section 401(a) plan;
- a section 403(a) plan;
- a section 403(b) plan;
- a simplified employee pension (SEP) under section 408(k);
- a SIMPLE plan under section 408(p);
- an eligible governmental plan under section 457(b); and
- an individual retirement plan, including a Roth IRA under section 408A or a deemed IRA under section 408(q).

Under E-SIGN, before the required information can be provided or made available electronically, a participant must first affirmatively consent to receive the information electronically and the consent must be made in a manner that reasonably demonstrates the participant's ability to access the information in electronic form.

Prior to consenting, the participant must receive a disclosure statement that outlines:

- the hardware or software requirements for access to, and retention of, the electronic records;
- the scope of the consent;
- the participant's right to withdraw his or her consent to receive the communication electronically (including any conditions, consequences, or fees in the event of the withdrawal); and
- the right to receive the communication using paper and any fees imposed for receiving paper.

The electronic system used to provide a notice or to make an election must be reasonably designed to:

- provide the information in a manner no less understandable than if provided on a written paper document and
- alert the recipient, at the time the applicable notice is provided, to the significance of the information in the notice (including the identification of the subject matter of the notice), and provide any instructions needed to access the notice, in a manner that is as readily understandable and accessible as if provided using a written paper document.

If an electronic record of an applicable notice or a participant election is not maintained in a form that is capable of being retained and accurately reproduced for later reference, then the legal effect, validity, or enforceability of such electronic record may be denied.

Two methods are permitted to provide an applicable notice to a recipient through the use of an electronic medium:

1. Using an electronic medium after the recipient consents to the electronic delivery of the notice (the consumer consent method).
2. Using electronic systems that satisfy the standards in the 2000 regulations (the alternative method). ■

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## Setting Up IRA Accounts for Plan Participants

Customers have brought to our attention the following issues:

1. Plan sponsors wonder how to set up IRAs for automatic rollovers of participants' accounts pursuant to § 657 of EGTRRA.

Note: *Section 657 of EGTRRA amended the Code to require that mandatory distributions of more than \$1,000 from a qualified plan be paid in a direct rollover to an IRA.*

2. Plan sponsors/administrators of terminated plans have been told that they cannot set up IRAs for the account balances of missing participants.

These plan sponsors/administrators have encountered banks that will not establish IRAs without the participant's signature indicating that they are following the rules of the Customer Identification Program (CIP) of the USA Patriot Act (P.L. 107-56). The federal agencies that drafted these regulations have issued [frequently asked questions](#) (FAQs) regarding the application of the CIP rules. Question 4 of the FAQs provides relief for plans complying with the automatic rollover rules and for terminating plans.

FAQ #4 provides, in part:

*Thus, in light of the requirements imposed on the plan administrator under EGTRRA, as well as the requirements in connection with plan terminations, the former employee will not be deemed to have "opened a new account" for purposes of the CIP rule until he or she contacts the bank to assert an ownership interest over the funds, at which time a bank will be required to implement its CIP with respect to the former employee.*

*This interpretation applies only to (1) transfers of funds as required under section 657(c) of EGTRRA, and (2) transfers to banks by administrators of terminated plans in the name of participants that they have been unable to locate, or who have been notified of termination but have not responded, and should not be construed to apply to any other transfer of funds that may constitute opening an account. ■*

## Critical Few Points...By Director, EP Examinations

In the last issue of this newsletter, I explained the three “Critical Few” priorities for this fiscal year. These items explain the priorities and goals of the Examination Program. To recap, the three items are:

- Expand Compliance Contacts
- **Research and Analysis**
- Focused Examinations

Research and Analysis is highlighted in red as I would like to address this item in detail and inform you as to the importance of this priority.

Research and Analysis provides us the opportunity to select the most appropriate returns for examination potential. We hope to no longer waste our time and efforts on returns that have little or no problems or issues. For those of you that have a well-administered plan, perform internal audits of your plan and trust, and correct any mistakes when discovered, the chances that we will come knocking on your door are less.

To select the most appropriate returns, we have established two groups to assist us in which returns should be selected. The first group is the Data Analysis Unit, or DAU. The DAU was formed to support EP (and all other Tax Exempt and Government Entities [TE/GE] areas) compliance activities by providing data analysis which will ultimately impact strategic planning, workforce processes and examination case selection. This group is comprised of economists, statisticians, mathematical statisticians and operations research analysts. All of the members were hired from outside the Service from various parts of the country. All hold degrees in their professions and have a host of experience in various areas of data analysis.

One of the eight Operating Priorities outlined in the [FY 2007 Employee Plans Work Plan](#) in support of these goals is to “**Refine Compliance Risk Assessment/Market Segment Analysis and Begin Classifying Examinations Based on this Data.**” The DAU is currently analyzing this program. The approach seeks to understand plan features, major issues from closed cases, and other common trends by plan type across all business sectors.

The spectrum of skills represented in the DAU can be applied to a variety of topics, aspects, and problems throughout Employee Plans. The DAU is here to provide specific client solutions. Some of the products the DAU has developed include:

- Studies to understand the overall picture of segments within the TE/GE universe.
- Identification of areas of potential noncompliance.
- Creation of electronic monitoring tools.
- Data system process consultancy.

The second group is the Employee Plans Compliance Unit, or EPCU. This group has been discussed in prior articles. Nonetheless, I will give you a brief description of the group and the projects that are currently open.



EPCU consists of employees hired from within the Service and are located throughout the country. This Unit focuses on some of the most high profile projects affecting EP. Some of the projects EPCU addresses frees up resources in our Classification Unit which will be redirected to improve our inventory selection techniques. In addition, the Unit will investigate new ways of using available data and analytical techniques.

The data analysis performed by the EPCU mainly focuses around the evaluation and selection of EPCU projects. The Unit has a Computer Research Analyst who uses a variety of internal and external data sources to determine areas of potential noncompliance. The EPCU evaluates results based on data which falls outside normal standards. Some examples would include:

- Identification of reported fraud from analysis of the Form 5500.
- Analysis of Form 5330 data on prohibited transactions for 401(k) plans.
- Analysis of party-in-interest transactions through coordination with the Department of Labor,
- Other similar situations which are possible violations of pension law.

As suggestions for potential project activities are forwarded to the Unit, an initial analysis is performed to determine whether the suggestion has potential, and where in the organization (i.e., EPCU, field examination, CE&O) it is best to address compliance.

Two of the seven projects currently open in the EPCU are:

- Minimum Funding Deficiency Project - The EPCU continues to devote resources to defined benefit and defined contribution plans which have a reported minimum funding deficiency. Plans subject to the minimum funding requirement, as specified in section 412, must report whether the funding requirement has been met for the plan year. The EPCU issues a compliance letter to plan sponsors to determine if the reported funding deficiency was corrected, including the filing of a Form 5330 and payment of the excise tax.
- 403(b) Universal Availability Project - School Districts are being contacted to determine if they are in compliance with the nondiscrimination provisions of IRC section 403(b)(12)(A)(ii), also known as the “universal availability” requirement. A questionnaire is included with the compliance letter to identify if their employees are provided the opportunity to participate in the school district’s 403(b) plan. This is the newest project started by the EPCU.

Two of several new projects this fiscal year include:

- SIMPLE IRA Plan Relief Project - In 2006 the Service issued nearly 200,000 letters to sponsors of SIMPLE IRA plans. This letter offered relief to those who were not in compliance with the applicable provisions of EGTRRA. The EPCU will conduct a follow-up on a sample of the 200,000 to verify compliance with the terms of this relief letter.
- 5498 Project - Many taxpayers have contributed to IRAs and/or have rolled over funds into IRAs. The Unit will look into whether these arrangements and related transactions were handled in accordance with the law.

In the last edition of this newsletter, I also briefly mentioned the LESE project. The acronym represents:

**Learn** - Learn all we can about the general and specific compliance issues.

**Education** - Tell the members of the targeted population what we learned and what we expect them to do to correct through outreach initiatives and soft contact notices issued from the EPCU.

**Self-Correct** - Give that specific population the opportunity to make correction via EPCRS. Correction alternatives would be outlined through outreach initiatives (speeches, publications, web, etc.) and soft contact notices.

**Enforce** - Perform follow-up examinations for that specific population taking a firm position on those who have not corrected.

To identify issues of interest we will consider available information from agents, referrals, media, determination & Voluntary Correction submissions, outreach, and other sources that will be compiled for trends or potential issues. During this current fiscal year we will start eight specific LESE projects looking at 50 cases for each project. We are in the process of evaluating our data to identify the best possible issues/population for our initial project.

As you see, we are quite serious about finding the right returns to target for examination. We offer many avenues for you (outreach, web content, correction programs, etc.) to learn about our priorities and how you can avoid the problems we are finding and/or correcting the errors in your plan just as soon as possible. Make no mistake, our examination program is in full swing and we are out to find those plans not in compliance. ■

## ***Product Profile - Payroll Deduction IRAs for Small Businesses***

**Want to help your employees save for retirement but don't want the responsibility of an employee benefit plan? Think about a Payroll Deduction IRA program.**

The IRS and U.S. Department of Labor's Employee Benefits Security Administration (EBSA) have jointly issued a publication to provide you with additional information on Payroll Deduction IRAs. This publication is so hot off the presses that it doesn't even have a publication number yet. [\*\*\*Payroll Deduction IRAs for Small Businesses\*\*\*](#) is a plain-language publication that provides you with basic information on establishing and operating a Payroll Deduction IRA program for your employees. In addition, it provides additional resources for your use if you need more in-depth information.

The publication, as well as additional information on [\*\*\*Payroll Deduction IRAs\*\*\*](#), can be found on the Retirement Plans Community web page and the EBSA web site. Copies of the publication can be ordered by calling either (800) 829-3676 (IRS will not have hard copies available until mid-March) or (866) 444-3272 (EBSA). Both numbers are toll-free. ■

**Payroll Deduction IRAs** for Small Businesses



## The Fix Is In: Common Plan Mistakes

In each issue of the *Retirement News for Employers*, we present a common mistake that occurs in retirement plans. We describe the problem, how it happened, how to fix it and how to lessen the probability of the problem happening again. In this edition, instead of tackling a single issue, we will focus on the “**Self-Correction Program (SCP)**.”

### Self-Correction Program (SCP)

SCP, a part of the [Employee Plans Compliance Resolution System \(EPCRS\)](#), is a correction program for resolving operational failures without any disclosure or payment of fees to the Service. If an operational failure does not meet the eligibility requirements of SCP, then the Voluntary Correction Program (VCP) is the only other option to use EPCRS. The VCP program requires full disclosure of the error, correction, and payment of a compliance fee to the Service. SCP can be used to resolve significant and insignificant violations and can even be used to resolve insignificant operational failures discovered during an audit by the Service. It is important to note that, for SEPs and SIMPLE-IRA plans, SCP is available only to insignificant failures.

#### How to Subscribe to Retirement News for Employers

The *Retirement News for Employers* is issued only through IRS e-mail. For your free subscription, please go to the [Retirement Plans Community web page](#) and subscribe online by selecting “Newsletters” under “Retirement Plans Community Topics.” All editions of the *Retirement News for Employers* are archived there.

For your convenience, we have included Internet links to referenced materials throughout the *Retirement News for Employers*. These links are identified by blue and underlined text. ■

### Eligibility Requirements for Using SCP

Correction under SCP to fix a significant violation is available for only a limited period of time. Generally, this period is two plan years following the plan year in which the operational failure occurred. For example, if a plan’s vesting requirements were violated in a plan year ending December 31, 2004, the self-correction period for significant violations would end on December 31, 2006.

There are two exceptions to the above rule. The first applies to significant failures related to transferred assets from another plan or the assumption of a plan due to a corporate merger, acquisition, or similar business transaction. SCP allows such failure to be corrected up to the last day of the plan year that begins after the corporate merger, acquisition, or similar business transaction, even if the failure occurred more than two plan years earlier. The second exception deals with the correction of the ADP test and ACP test. The two-year period for correcting ADP or ACP test violations runs after the close of the 12-month correction period that is provided by the 401(k) and (m) regulations. For example, suppose the ADP test is failed for the plan year ending December 31, 2004. The regulatory correction period ends December 31, 2005. The SCP correction period would run for two plan years beyond that, ending on December 31, 2007.

### Determining if the Violation is Insignificant

Whether a violation is insignificant is determined on the basis of all the facts and circumstances. The following factors are considered in determining whether a violation is insignificant:

1. Whether other failures occurred during the period being examined. A particular type of operational failure affecting more than one participant is treated as one failure.
2. The percentage of plan assets and contributions involved in the failure. The lower the percentage, the more likely the violation is insignificant. The Service will not emphasize this factor to exclude small businesses.

3. The number of years the failure occurred. The fewer the number of years involved, the more likely the violation is insignificant.
4. The number of participants affected relative to the total number of participants in the plan. The lesser the percentage of participants affected; the more likely the violation is insignificant. Again, the Service will not interpret this factor in a manner that would exclude small businesses.
5. The number of participants affected as a result of the operational failure relative to the number of participants who could have been affected by the failure. For example, the number of participants who received improper vesting upon distribution would be compared to the total number of participants who received distributions in the relevant period.
6. Whether correction was made within a reasonable time after discovery of the failure.
7. Why the failure occurred. Data errors, such as errors in the transcription of data, the transposition of numbers or minor arithmetic errors are more likely to be deemed insignificant.

### **Correction Must be Timely**

Correction of significant errors should be completed within a reasonable time after discovery of the failure and, generally, no later than two years after the year in which the error occurred. SCP can also be used for significant violations if the error is “substantially corrected” by the end of the two-year period. The Service recognizes that sometimes complete correction of the failure is not possible within the two-year period and SCP relief should be available if correction is completed within a reasonable period of time thereafter. [Rev. Proc. 2006-27](#) defines “substantially corrected” and requires that the correction meets one of the following tests:

1. During the correction period, the plan sponsor is reasonably prompt in identifying the operational failure, formulating a correction method, and initiating correction in a manner that demonstrates a commitment of completing correction of the operational failure as expeditiously as practicable. The correction must be completed within 90 days after the last day of the correction period.
2. During the correction period, correction is completed for at least 85 percent of all participants affected by the operational failure and thereafter, the plan sponsor completes correction of the operational failure with respect to the remaining affected participants in a diligent manner.

If correction of a significant operational failure is not corrected timely, then SCP is not available to correct the failure, but VCP is. Remember that insignificant errors can be corrected at any time.

### **Availability of Correction by Plan Amendment in SCP**

A plan sponsor may use SCP to correct an operational failure by a plan amendment to conform the terms of the plan to the plan’s prior operations only to correct operational failures listed in Appendix B to Rev. Proc. 2006-27. These relate to violations of the compensation dollar limit, the making of hardship distributions without authorizing plan language, and the inclusion of an ineligible employee.



In the case of any correction of an operational failure through plan amendment under SCP, a plan sponsor must submit a determination letter application, identifying the amendment under SCP in the cover letter. The determination letter application must be submitted before the end of the plan's applicable remedial amendment period described in [Rev. Proc. 2005-66](#).

## Diligent Plan Administration and Prompt Correction is the Best Policy

This article highlights the importance of conducting periodic reviews of the plan's operation and promptly fixing operational failures after they are discovered. This can reduce the cost of correction and may allow the use of the SCP to correct errors. If SCP is used, all steps taken to complete the process should be documented and retained with plan records. Keep in mind that, despite all of your good efforts, mistakes can happen. In that case, the Service can help you correct the problem and retain the benefits of your qualified plan. ■

### CONTACTING EMPLOYEE PLANS

The *Retirement News for Employers* welcomes your comments about this issue and/or your suggestions for future articles.

Send comments/suggestions to:

EP Customer Education & Outreach  
SE:T:EP:CEO  
1111 Constitution Avenue, N.W., PE-4C3  
Washington, D.C. 20224

or FAX (202) 283-9525

or E-Mail: [RetirementPlanComments@irs.gov](mailto:RetirementPlanComments@irs.gov)

For **EP Taxpayer Assistance:**

**For retirement plans technical and procedural questions:**

Please call (877) 829-5500

Or visit the Contact EP/Services section at [www.irs.gov/ep](http://www.irs.gov/ep).

**For questions relating to retirement income, IRAs, Roth IRAs, educational IRAs, medical savings accounts and section 125 cafeteria plans:**

Please call (800) 829-1040

For further **Employee Plans Information:** Go to [www.irs.gov/ep](http://www.irs.gov/ep). ■

## Net Gains

Welcome back to *Net Gains*, the column devoted to providing you with the latest [Retirement Plans Community web page](#) information. This portion of the [IRS web site](#) contains almost everything you want to know about retirement plans but didn't know where to find it.

### New PPA Web Page

As we mentioned in the cover article, we recently introduced a [PPA web page](#) dedicated to the many retirement-related provisions of the Pension Protection Act of 2006 (PPA). Check out the page for Information on the PPA, Newsletter Articles, Published Guidance and more.

### New Online Check-up

[401\(k\) Checklist](#) (Pub 4531) is now available online. This new checklist highlights the top 10 compliance issues occurring in 401(k) plans and is designed to bring awareness of these issues to plan sponsors. When viewed online, the *401(k) Checklist* has terms hyperlinked to take users to a much more in-depth discussion of the issue.

### Retirement Plans Community Site Map

Need help finding a topic? Visit the [Retirement Plans Community Site Map](#) which contains a listing of information by topic on the Retirement Plans Community web site. ■

## DOL News

The Department of Labor's Employee Benefits Security Administration (DOL/EBSA) announced new regulations and guidance related to implementation of the Pension Protection Act (PPA). DOL/EBSA has a dedicated web page for PPA related information including the Act itself, and regulations and other guidance issued by DOL, the Department of the Treasury, and the Pension Benefit Guaranty Corporation. You can subscribe to DOL/EBSA's web site homepage, PPA page and Compliance Assistance page for notice of updates.

### Inherited IRA Regulation and Exemption

On February 15, 2007, DOL/EBSA published in the Federal Register an interim final rule and proposed class exemption relating to the distribution of individual account benefits for missing nonspouse beneficiaries in terminated plans.

The PPA amended the Internal Revenue Code (IRC) to allow the rollover of certain retirement benefits of a deceased participant into a tax-favored inherited IRA created on behalf of a nonspouse beneficiary. The new rule and related proposed class exemption conform to the PPA by amending existing distribution requirements for terminated defined contribution plans, including abandoned plans, to require rollovers into inherited IRAs for missing nonspouse beneficiaries.

While the rule is effective 30 days after publication in the Federal Register, the public is invited to submit written comments on both the interim final rule and the proposed class exemption. Public comments on the rule may be mailed to the Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N5669, U. S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20210, or by email to [e-ORI@dol.gov](mailto:e-ORI@dol.gov) or through the federal e-rulemaking portal at [www.regulations.gov](http://www.regulations.gov). Comments on the proposed class exemption may be mailed to the Office of Exemption Determinations in Room N5700, by email to [e-OED@dol.gov](mailto:e-OED@dol.gov) or through the federal e-rulemaking web site above.

### Cross-Trading Statutory Exemption

On February 12, 2007, DOL/EBSA published in the Federal Register an **interim final rule** implementing the statutory exemption under the PPA allowing investment managers of plans governed by the Employee Retirement Income Security Act (ERISA) to execute cross-trades if certain conditions are met. The interim rule establishes the requirements for the policies and procedures investment managers must adopt to engage in cross-trades.

Although the rule on cross-trading policies and procedures is effective 60 days after publication in the Federal Register, the public is invited to submit written comments on the interim final rules. Comments may be mailed to the Office of Exemption Determinations, Employee Benefits Security Administration, Room N5700, U. S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20210, or by email to [e-OED@dol.gov](mailto:e-OED@dol.gov) or through the federal e-rulemaking portal at [www.regulations.gov](http://www.regulations.gov).

### Investment Advice Statutory Exemption

DOL/EBSA took two actions on the statutory exemption for investment advice in the PPA. The PPA amended ERISA by adding a new prohibited transaction exemption that allows greater flexibility for investment advisers to give advice to participants of 401(k) plans and individual retirement accounts (IRAs).

On February 2, 2007, DOL/EBSA announced the release of [Field Assistance Bulletin \(FAB\) 2007-01](#). The FAB clarifies that past guidance relating to investment advice, including Interpretive Bulletin 96-1, Advisory Opinions 97-15A, 2001-09A (SunAmerica Advisory Opinion), and 2005-10A, continue to represent the views of DOL/EBSA, and may continue to be relied upon.

The FAB also specifically addresses the standards for selecting and monitoring a fiduciary investment adviser, both under the investment advice exemption of the PPA and more generally. The guidance addresses the level-fee requirement of the exemption and whether affiliates and employers of persons who serve as fiduciary advisers are subject to the conditions of the exemption.

On December 4, 2006, DOL/EBSA published in the Federal Register two Requests for Information (RFI) to assist DOL/EBSA in implementing the exemption relating to 401(k)-type plans and IRAs.

Under the exemption, one of the ways in which investment advice may be given is through the use of an unbiased computer model. The computer model must be certified by an independent expert under rules to be prescribed by DOL/EBSA. The RFI on investment advice for 401(k)-type plans solicited information to assist DOL/EBSA in determining what expertise and procedures may be needed to qualify an expert to certify a computer model under the exemption. The PPA also requires DOL/EBSA to issue a model notice on fee disclosures related to advice. In this regard, the RFI also solicited information on the types of fee disclosure materials currently used and their usefulness to participants.

The RFI on investment advice for IRAs will assist DOL/EBSA in assessing the feasibility of using computer models to provide advice to IRA participants. The PPA requires DOL/EBSA to solicit information from at least the top 50 IRA trustees and other entities offering computer model investment advice programs. A separate copy of the RFI, in addition to its publication in the Federal Register, was provided to the entities so identified to ensure their receipt.

The RFI on investment advice for [401\(k\) plans](#) and [IRAs](#) is available on DOL/EBSA's [PPA web page](#). The comment period closed on January 30 for both RFIs. The [comments](#) also are posted on the PPA page.

### **Individual Benefit Statements and Diversification Notices**

On December 20, 2006, DOL/EBSA issued [FAB 2006-03](#) providing guidance relating to individual benefit statements and notices of freedom to divest employer securities.

The PPA improved the individual benefit statements required to be provided to participants and beneficiaries under ERISA. Among the new requirements are more frequent periodic pension benefit statements and new notices regarding participant diversification rights. These new requirements generally are effective for plan years beginning after December 31, 2006.

In an effort to address interim interpretive and compliance concerns, pending the adoption of regulations by DOL/EBSA, the FAB provides DOL/EBSA's views on what would constitute good faith compliance with certain of the new requirements. The FAB specifically provides guidance on form, manner, content, and timing requirements pertaining to individual benefit statements. The FAB also provides guidance on the extent to which furnishing the first individual benefit statements can satisfy diversification notice requirements.

### **Proposed PPA Revisions to Form 5500 Annual Report for 2008**

On December 8, 2006, DOL/EBSA, IRS and PBGC announced [proposed supplemental revisions](#) to the 2008 Form 5500. The proposed revisions implement amendments to the annual reporting and pension funding requirements of ERISA and the IRC enacted as part of the PPA. The proposal supplements a more general revision of the 2008 Form 5500 proposed by the agencies in July 2006.

IRS employees contributing to this edition of the *Retirement News for Employers* are:

**Craig Chomyok,  
Betty McClernan,  
Peter McConkey,  
Mark O'Donnell,  
Nancy Payne,  
Sharon Polo,  
Shelley Pope,  
Keith Ruprecht,  
John Schmidt,  
Brenda Smith-Custer, and  
Mikio Thomas**

The supplemental proposal would replace the Schedule B (Actuarial Information) filed by defined benefit pension plans with separate actuarial schedules for [multiemployer plans](#) and [single employer plans](#). The supplemental proposal also would add questions to the [Schedule R](#) (Retirement Plan Information) to collect new information on defined benefit pension plans required under the PPA.

Finally, the supplemental proposal would establish the Form 5500-SF, which was part of the agencies' July 2006 proposal, as the simplified report required by PPA for plans with fewer than 25 participants. These proposed revisions would be effective for 2008 plan year filings.

The comment period closed on January 10. The [comments](#) are posted on DOL/EBSA's PPA page.

### [Upcoming Compliance Assistance Events](#)

- Voluntary Fiduciary Correction Program Workshops: March 22, 2007 in Mt. Pleasant, SC

Visit DOL/EBSA's web site at [www.dol.gov/ebsa](http://www.dol.gov/ebsa) for the registration brochure for this seminar and for the announcement of additional seminars around the country. ■

## The Filing Cabinet

Forms - you can't live with them, you can't live without them. Just like you use forms when running your business - everything from spreadsheets to receipts to invoices - you also use forms when dealing with a retirement plan.

### Revised Products

Since our last installment, we're happy to announce the following product revisions:

- [Form 5558](#), *Application for Extension of Time To File Certain Employee Plan Returns*, has finally been updated to better accommodate the fact that a signature is not required to receive an automatic 2½ -month extension to file the Form 5500 or Form 5500-EZ. There are now separate parts to the form that indicate whether filers are requesting an extension for one of the previously mentioned annual returns or the Form 5330 (for which a signature is still required).
- [Publication 575](#), *Pension and Annuity Income*, has been revised for use in the preparation of 2006 individual income tax returns. The pub discusses the tax treatment of distributions received from pension and annuity plans and explains how to report the income on your federal income tax return.

### Ring in the New Year

Before we get too far into the new year, did you know that the IRS has revised its highly popular [Publication 1518](#), *2007 IRS Tax Calendar for Small Businesses and Self-Employed*? The calendar is filled with helpful hints, general tax information and a listing of the most common tax filing dates. Each month highlights a new tax tip intended to help small businesses during both the tax filing season and the entire year. A copy of the calendar can be ordered by calling (800) TAX-FORM (829-3676). ■



## Let's Just Take It One Three-Month Period at a Time

Operating a retirement plan can be a time-consuming job. There are deadlines, not just for reports and forms but also for making contributions. There are conferences and seminars. And then there is information you need to give to participants.

So to help you navigate the retirement plan timeline, here is our month-by-month look at some of the important moments in the months to come. Please note that all of the filing dates below are for calendar-year plans - adjust the dates for non-calendar year plans:



= contribution/  
distribution



= conference



= file forms



**February 16:** [SWBA/IRS Plan Administrative Skills Workshop](#) - Oklahoma City, OK



**February 23:** [SWBA/IRS Plan Administrative Skills Workshop](#) - Houston, TX



**March 15:** Deadline for -

- Submitting waiver requests for the 2006 plan year for single employer plans.
- Change in funding method requests for the 2006 plan year if a statement is attached detailing the reason for the delay.



**March 22:** EBSA Voluntary Fiduciary Correction Program Workshop - Mt. Pleasant, SC



**April 1:** Last day to make required minimum distributions - Code section 401(a)(9) requires that distributions begin no later than April 1 of the calendar year following the later of:

- The calendar year in which the employee attains age 70 ½ (required for 5% owners) or
- The calendar year in which the employee retires.



**April 15:** First quarterly installment due date for the 2007 plan year.



**April 15:** Excess elective deferrals and any earnings thereon from the prior year must be distributed by this date.



**April 17:** Deadline to establish an IRA for possible deductions in the 2006 calendar year.

For a comprehensive list of upcoming EP Educational Events, visit the [Retirement Plans Community web page](#), select “Questions: Where to get Answers” under the “Plan Sponsor/Employer” web page, and then “Upcoming EP Educational Events.” ■

# Timing is Everything

*Some helpful retirement tips for employees from the IRS...*

How much can I contribute to my IRA for 2006?

- The lesser of:
  - o Your taxable compensation *or*
  - o \$4,000 (\$5,000 if 50 or older).



When must I make the contribution?

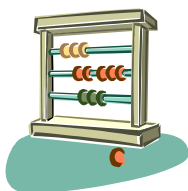
By April 17, 2007 (April 15 falls on a weekend this year).



Is my contribution deductible?

- If it is to a **Roth IRA** – no.
- If it is to a **traditional IRA** – maybe.

(See page 31 of the **2006 Form 1040 Instructions**)



See your employer or [www.irs.gov/ep](http://www.irs.gov/ep) for additional information on these items.

